The Planning Inspectorate

Appeal Decisions

Site visit made on 3 August 2020

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd September 2020

Appeal A - Appeal Ref: APP/C1570/W/20/3245387
Frogs Hall, Bambers Green Road, Takeley, Essex CM22 6PE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr John Losi, Winston Group against Uttlesford District Council.
- The application Ref UTT/18/3524/FUL, is dated 20 December 2018.
- The development proposed is described as 'removal of extensions to the listed building and its retention as a single dwelling, demolition of existing outbuildings and the erection of 6 detached dwellings'.

Appeal B - Appeal Ref: APP/C1570/Y/20/3245395
Frogs Hall, Bambers Green Road, Takeley, Essex CM22 6PE

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
- The appeal is made by Mr John Losi, Winston Group against Uttlesford District Council.
- The application Ref UTT/18/3525/LB is dated 20 December 2018.
- The works proposed are described as 'removal of extensions to the listed building and its retention as a single dwelling, demolition of existing outbuildings and the erection of 6 detached dwellings'.

Decisions

1. Appeal A - The appeal is dismissed, and planning permission is refused.

2. Appeal B – The appeal is allowed and listed building consent is granted for the removal of extensions to the listed building and the demolition of an existing outbuilding (Building C) at Frogs Hall, Bambers Green Road, Takeley, Essex CM22 6PE in accordance with the terms of the application Ref: UTT/18/3525/LB dated 20 December 2018 and subject to the following conditions:

    1. The works hereby authorised shall begin not later than 3 years from the date of this consent.

    2. The works hereby authorised shall be undertaken only in accordance with the following approved plans: P273, P274, P272, P270, P005 and P010 (in so far as it shows Outbuilding C and the rear extensions demolished).

    3. The demolition works shall be undertaken in accordance with the recommendations contained within the Bat Survey Report prepared by BSG Ecology dated 25 October 2019.

Preliminary Matters

3. I have considered the two appeals concurrently, but on their own merits, because there are common matters between them.

4. I have changed the description of development in my formal decision in respect of Appeal B so that it only relates to the works that require listed building consent. These being the demolition of the rear extensions to the listed building and the curtilage listed 'Building C' (as annotated on Drawing P005).

5. Both the appellant and Council were afforded an opportunity to provide further comments on the origins and significance of the rear extensions proposed for demolition. I have had regard to the additional comments submitted by the appellant. The Council did not provide further representations on this point.

Background and Main Issues

6. The Council failed to determine the applications for planning permission and listed building consent within the prescribed periods and therefore the appellant exercised his right to submit these appeals. The Council has confirmed that had it been in a position to do so, it would have refused the planning application due to concerns over the location of the proposal and its effect on the setting of Frogs Hall, a Grade II listed building. The Council does not however, raise any objections to the works proposed in Appeal B.

7. Accordingly, the main issues in these appeals are:

   - Whether the appeal site is a suitable location for the proposed development, with reference to the spatial strategy for housing in the development plan; and

   - Whether the proposed works would preserve the Grade II listed building known as Frogs Hall and whether the proposal would preserve its setting.

Reasons

Whether the appeal site is a suitable location for the proposed development

8. The appeal site is not located within any settlement boundary defined in the Uttlesford Local Plan 2005 (LP). Therefore, it is within the countryside for the purposes of applying the policies of the LP. Policy S7 of the LP seeks to protect the countryside by strictly controlling development there. The policy states that planning permission will only be given for development that needs to take place in the countryside or is appropriate to a rural area.

9. The proposal would result in the erection of open market housing that, based on the evidence before me, does not need a countryside location. For example, it would not be a rural exception scheme, related to a rural enterprise or required for a rural worker. Moreover, as the proposal is not specifically supported by any other policy in the development plan it is reasonable to conclude that it is not appropriate for this rural area. As such, the proposal would be at odds with Policy S7 of the LP. This would be the case even though there would be a limited impact on the landscape due to the recessive siting the proposed houses would have back from the road taken with the generous extent of boundary landscaping, which would provide an effective screen (as demonstrated in the appellant's Landscape and Visual Impact Assessment).

10. The appeal site is also located within the Countryside Protection Zone (CPZ), a local strategic designation outlined in Policy S8 of the LP, the aim of which is to strictly control development around Stansted Airport. Like Policy S7, development is only permitted in the CPZ if it is required to go there or is appropriate to a rural location. In particular, the development is not permitted by Policy S8 in the CPZ if it would result in coalescence or harm the open countryside of the zone. The development would not result in coalescence and the overall impact on the open countryside of the CPZ would be minor given that existing buildings of a comparable massing would be demolished. The new dwellings would also be difficult to discern from any public vantage point. However, for the reasons given in the preceding paragraph the proposal does not need to be in the CPZ and is not appropriate to the rural location. As such, the proposal would also be at odds with Policy S8 as a whole.

11. In conclusion, the proposal would be at odds with, and harmfully undermine, the adopted spatial strategy for housing in the development plan and thus the consistency, public interest and relative certainty that should ordinarily flow from an approach to the location of development that is genuinely plan led.

Whether the proposed demolitions would preserve the Grade II listed building

12. Frogs Hall was listed in 1990 and is a large timber framed farmhouse, probably with origins in the 17th Century, which is set in large grounds. The building was extended in the 18th and 19th Centuries with rear wings. A lower stable range joins the 18th Century wing. The building was subsequently remodelled in the mid-19th Century. Consequently, the significance/special interest of the listed building, in so far as it relates to these appeals, includes the evidential, aesthetic and historic value that can be discerned from the building as a high status example of vernacular architecture that has been altered over time. The result of this is a rich mix of several historic layers.

13. To the rear of the building is a courtyard accessed from the kitchen. It is dominated by large extensions providing a range of workshops and ancillary accommodation. The range is connected to the listed building and accessed from a rear hallway. Paragraph 189 of The National Planning Policy Framework (the 'Framework') states that an applicant should proportionately describe the significance of any heritage asset that may be affected by a proposal. The appellant's Heritage Statement does not appraise the range proposed for demolition in any detail save for concluding that the structure was added in 'recent decades'. It was initially unclear how this judgment had been arrived at and I have not been directed to any recent planning history relating to it.

14. Nevertheless, in responding to my request for further information the appellant has provided historic mapping from 1951 that does not show the presence of the range. His Historic Buildings Consultant has also suggested that the range probably dates from the 1950s and is not the earlier building shown on mapping from 1876 - 1920. The Council has not objected to the demolition of the range being of the view that it is a reasonably modern addition.

15. From the evidence before me I share these views because the range is likely to date from the mid-20th Century given its form, fenestration, general appearance and construction. Thus, it has limited historic or evidential value. It also has a negative effect on the aesthetic value of the listed building. Removing the range would enhance the significance of Frogs Hall by better revealing the form of the older part of the building.

16. To facilitate access to the proposed dwellings a curtilage listed structure (Building C) would need to be demolished. The building seems to have retained its earlier scale, form and position and is therefore of some limited evidential value in understanding the evolution of the site. Nevertheless, the outbuilding has been much altered with modern windows and garage doors inserted and much of the historic fabric lost. The building has been re-roofed and a new floor fitted. Internally there is no discernible evidence of its historic origins as it is fitted out as a modern workshop. The building is of little value in understanding the origins of the listed building or the subsequent historic layering. The loss of this building would have a neutral effect on the significance of Frogs Hall.

17. In conclusion, the demolitions would preserve the listed building. This would adhere to the expectations of The Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act') and Paragraphs 193 and 194 of the Framework. The works would also adhere to Policy ENV2 of the Uttlesford Local Plan 2005 (LP) insofar as relevant, which only permits works to listed buildings if they would not harm its special character or appearance.

Whether the proposal would preserve the setting of Frogs Hall

18. Frogs Hall, as a large, independently sited and high-status historic farmhouse derives intrinsic historic and evidential value from being experienced in a rural setting and as part of the wider agricultural landscape. The sparsity of other domestic properties near to the appeal site, save for those historically associated with Frogs Hall, assist in reinforcing this.

19. Frogs Hall is located towards the front of the appeal site with ancillary structures, including the Coach House, nearby. To the rear is an ad hoc collection of single storey and low-key functional buildings, including a large modern workshop/store finished in black timber boarding. These structures broadly have a recessive appearance. Consequently, Frogs Hall is the dominant structure on the site commensurate with its high-status history. The modern buildings are reminiscent of a farmyard complex, even though they have recently been used in associated with a firearms business.

20. The proposal would introduce six detached dwellings to the appeal site, three of which would be large. Although designed to be attractive and to exhibit a rural style they would nevertheless have a modern, domestic and uniform appearance due to the fenestration, consistent heights, and the composition of the elevations. The residential character would also be evident in the large domestic curtilages, parked vehicles and residential activity. In addition, the access track would be widened and extended. This would open a vista to the proposed houses, which would be arranged in a somewhat regular layout.

21. As such, the development would have a suburban character and would not appear convincingly as a group of buildings of vernacular agrarian, which evoke a farmstead context. Thus, when looking out from Frogs Hall and its garden, or along the access drive, it would be possible to clearly see new housing unrelated to the listed building and in its backdrop. Consequently, the rural character and experience of the site would be harmfully eroded even though the level of hardstanding would be reduced. Furthermore, the dominance of Frogs Hall as a high-status house would be meaningfully diminished.

22. In conclusion, the proposal would conspicuously harm, and thus fail to preserve, the setting of the listed building contrary to the expectations of the Act and Paragraphs 193 and 194 of the Framework. This harmful impact would also be contrary to Policy ENV2 of the LP, which only permits development that would safeguard a listed building's setting.

Other Matters and Conditions

23. The appellant has referred to several other appeal decisions in their submissions. However, for reasons I go into, Appeal A would fail even if the sole concern was the impact the proposal would have on the setting of the listed building. This is a specific site-based finding and therefore the other decisions referred to do not alter my overall conclusion.

24. The Council has not expressly recommended any conditions in respect of Appeal B. However, the Officer's committee report recommended the standard commencement condition. In addition to imposing this, it is necessary to impose a drawings condition in the interests of certainty. As bats were identified within the main part of Frogs Hall it is necessary for any demolition works to be undertaken in accordance with the recommendations set out in the Ecology Report submitted by the appellant.

Heritage Planning Balance

25. The harm that would occur to the setting of the listed building would not be severe and therefore it would be 'less than substantial' within the meaning of the Framework. Paragraph 196 of the Framework requires such harm to be weighed against the public benefits of the proposal. However, less than substantial harm should not necessarily be equated with less than substantial planning objection when the statutory test in the Act has not been met.

26. The proposal would result in the rear 20th Century range being demolished. This would better reveal the form and quality of the older more significant part of the listed building and is therefore a public benefit. That said, the appellants have not persuasively explained why it is necessary to construct all six homes, and thus harm the setting of the listed building, in order to achieve this benefit.

27. Removing the rear range could improve the habitability of the property by providing a better connection to the existing and newly established gardens and the resulting dwelling would be of a more manageable size. However, there is established connectivity to the existing large garden to the south from within the property and consequently there is already a good link with outdoor amenity space. Some future occupants may find the property more manageable without the range but there is no substantive evidence before me demonstrating this is essential to the occupation of the building.

28. The setting of the listed building would benefit from the removal of Building D as it is bulky, unattractive and apparently used as an unrestricted commercial store/workshop. However, this is not a compelling benefit because it is a building type not untypical of such a farmyard setting, and one certainly more so than the six dwellings proposed. In addition, the dark finish provides it with a recessive appearance. The other buildings proposed for demolition are low key and consequently their removal would not be a notable benefit. The 'retention' of the listed building as a single dwelling is a neutral matter as it implies no change.

29. The appeal scheme would increase the supply of housing at a point in time when the Council are unable to demonstrate a five-year housing land supply. the shortfall is acute at around 2.68 years. The provision of six homes would be a limited boost to housing supply, but given the housing supply deficit I afford this moderate weight as a public benefit.

30. The proposal would also support local services and facilities, all be it from a remote base. That said, I have not been provided with substantive evidence to suggest local services and facilities are failing for lack of patronage. Accordingly, there is nothing to justify elevating this matter to anything more than a limited benefit because six households would not have a notable effect in this regard. The proposal would also provide some support to the construction industry, but this would be time limited and modest in scale. Similarly, the benefits from biodiversity enhancement would be modest.

31. The Framework states that the use of suitable brownfield land within settlements for homes should be given substantial weight. However, given the impact on the setting of the listed building, the appeal site is not suitable for the proposal. The site is not within a settlement in any event, being some distance from Little Canfield and not particularly well-related to it in a physical sense. Thus, the re-use of previously developed land is a matter of limited weight as a public benefit in this instance.

32. Thus, when giving considerable importance and weight to the special regard I must pay to preserving the listed building's setting[1], I find that the serious overall harm that would arise from the proposal would not be outweighed by its moderate public benefits. Accordingly, there would be a conflict with Paragraph 194 of the Framework as harm to a designated heritage asset would not have clear and convincing justification. The development would therefore fail to satisfy the requirements of the Act, the Framework and the LP.

33. Given my findings in respect of Paragraphs 194 and 196 of the Framework, there are clear reasons for refusing the development. Consequently, it is unnecessary to consider whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. This is because Paragraph 11d) ii. of the Framework, by virtue of Paragraph 11 d) i. and footnote 6, does not apply. Moreover, as the benefits of the proposal would not outweigh the harm to the setting of the listed building, it therefore follows that those benefits would not outweigh the totality of harm I have identified either. This would be the case even if I were to afford limited weight to the conflicts with Policies S7 and S8 of the LP.

Conclusions

34. For the reasons given I conclude that Appeal A should be dismissed. However, I have allowed Appeal B as the works proposed would preserve the listed building and therefore satisfy the requirements of the Act, the Framework and development plan policies in so far as relevant.

Graham Chamberlain
INSPECTOR

[1] See Section 66(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990